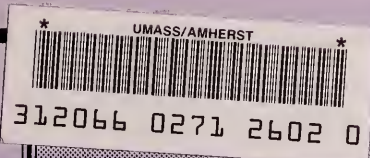


MASS. EA 24.2: H337/4/990



**HAZARDOUS WASTE REGULATIONS
FOR
MASSACHUSETTS**

**PUBLIC HEARING DRAFT
AMENDMENTS TO REGULATIONS
SPRING 1990**

*Prepared by: The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Protection
Bureau of Waste Prevention
Division of Hazardous Waste*

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GOVERNMENT DOCUMENTS
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public hearing draft may be obtained
by calling or writing:


Program, Policy and Regulation Development Branch
Division of Hazardous Waste
Department of Environmental Protection
1 Winter Street, 5th Floor
Boston, MA 02108
(617) 292-5898

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Daniel S. Greenbaum
Commissioner

The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Quality Engineering
One Winter Street, Boston, Mass. 02108

Dear Citizen:

I am pleased to send you this copy of the Public Hearing draft dealing with amendments and additions to the Massachusetts comprehensive hazardous waste regulations. These regulatory amendments have been developed with the goals of further strengthening, clarifying and extending the hazardous waste management regulations in order to better protect the public health, safety and welfare and the environment, and to ensure that Massachusetts maintains its authority to administer its hazardous waste program in lieu of the federal program.

The process of developing and further refining the Department's regulations is ongoing. The Department continues to benefit from the cooperation of industry, environmental groups and other concerned citizens in addressing these complex issues.

After reviewing this Public Hearing draft, I hope that you will comment on it and that you will attend one of the public hearings to be held by the Department in May. Your comments will be carefully considered as we continue to develop and amend the Department's regulations so that they will contribute to improving the public health, safety and welfare and the environment, in such a way as to maintain the economic well-being of the Commonwealth.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Dan Greenbaum", written over a horizontal line.

Daniel S. Greenbaum
Commissioner

NOTICE

Notice is hereby given that the Department of Environmental Protection will hold six (6) public hearings at the times and places set forth below.

These hearings will provide opportunity for the public to comment on proposed amendments to the hazardous waste management regulations and proposed amendments to the regulations for the control of air pollution. The Department proposes to adopt these regulations pursuant to the authority of G.L.C. c. 21C, ss. 4 and 6, G.L.C. c. 21E, s. 6 and G.L.C. c. 111, ss. 142A - J.

The first group of amendments were developed to maintain consistency with the federal RCRA program. One regulation adopts new procedures for making modifications to hazardous waste licenses. Other amendments include changes to the statistical methods for evaluating ground water monitoring data, and additions and deletions to the list of hazardous wastes.

A second group of regulations have been initiated at the state level under the authority given to DEP pursuant to G.L.C. c. 21C and G.L.C. c. 111. These regulations include the amendments to the manifest system for tracking hazardous wastes, provisions for one-day collections of unwanted pesticides, and joint regulations with the Department of Public Safety for waste oil tanks. The Department is also proposing to amend the transporter regulations to require drivers to carry certification of training and to file monthly operating reports in a machine readable format. Municipalities will be allowed to collect waste oil and transport it to be burned in used oil fired space heaters provided that the waste oil meets certain specifications. A number of small amendments are being proposed to clarify the regulations. Finally, amendments are proposed to the procedures for issuing Air Quality permits which are part of a DEP hazardous waste recycling permit.

Copies of the proposed regulations are available for inspection at each Regional Planning Agency and each of the DEP's regional offices. Copies may be obtained, free of charge, from the Division of Hazardous Waste, DEP, 1 Winter Street, 5th Floor, Boston, MA 02108.

The public hearings will be held as follows:

Testimony and comments may be presented orally and/or in writing at the public hearings. Testimony may be presented in writing no later than May 4, 1990. Written comments shall be addressed to: Susan Green, Division of Hazardous Waste, DEP, 1 Winter Street, 5th Floor, Boston, MA 02108.

May 2, 1990

10:30 AM
LOWELL
Univ. of Lowell
Multipurpose Room
Lydon Library

May 2, 1990

3:30 PM
BARNSTABLE
Cape Cod Comm. College
So. Faculty Lounge

May 3, 1990

1:00 PM
BOSTON
DEP, 10th Floor
One Winter Street

May 3, 1990

4:00 PM
WORCESTER
DEP, Lg. Conf. Room
75 Grove Street

May 4, 1990

10:00 AM
HOLYOKE
Holyoke Comm. College
Room C311 (use
Conference Parking Lot)

May 4, 1990

2:00 PM
PITTSFIELD
City Hall
Room 203

By Order of the Department
Daniel S. Greenbaum, Commissioner

William F. Cass, Director
Division of Hazardous Waste

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PUBLIC HEARING DRAFT

APRIL - MAY 1990

DISCUSSION OF HAZARDOUS WASTE AND AIR QUALITY REGULATIONS

INTRODUCTION

These proposed amendments to the Hazardous Waste Regulations, 310 CMR 30.000, have been developed primarily for the purpose of maintaining the state's authority to implement the Hazardous Waste Regulatory program under the federal Resource, Conservation and Recovery Act (RCRA). The revisions are drawn in part from rules promulgated by the U.S. Environmental Protection Agency (EPA) in the Federal Register between July 1, 1988 and June 30, 1989. The major amendments to the regulations are new procedures for modifications to hazardous waste licenses, amendments to the statistical methods for evaluating ground water monitoring data, additions and deletions to the list of hazardous wastes, amendments to the requirements for interim status facilities and a series of minor changes necessary to be consistent with the RCRA regulations.

There are several sets of regulations that have been initiated at the state level under the authority given to DEP pursuant to M.G.L. 21C and M.G.L. c. 111, Sections 142A - J. These regulations include the amendments to the manifest system for tracking hazardous wastes, provisions for one-day collections of unwanted pesticides, and joint regulations with the Department of Public Safety for waste oil tanks. The Department is also proposing to amend the transporter regulations to require drivers to carry certification of training and to file monthly operating reports in a machine readable format. Additionally, the Department is proposing to allow municipalities to collect waste oil and transport it to be burned in used oil fired space heaters provided that the waste oil meets certain specifications. A number of small amendments are being proposed to clarify the regulations. Finally, amendments to the procedures for issuing Air Quality permits to hazardous waste recycling facilities are proposed.

All of these revisions have undergone review and approval by the Hazardous Waste Advisory Committee and its subcommittees, and therefore represent a wide spectrum of views from the public. The purpose of this public hearing draft is to take the next step to ensure adequate public participation in DEP's rulemaking process.

PROPOSED REGULATORY CHANGES - ADOPTION OF FEDERAL REGULATIONS

Procedures to Modify Hazardous Waste Licenses

The current system for modifying licenses of treatment, storage and disposal facilities has two different procedures: minor and major modifications. Under this system, most of the modifications were major, requiring development of a draft license, public notice and opportunity for hearing. These procedures are the same as for issuing the initial license except that the scope of the public participation was limited to the specific license condition being modified.

EPA felt that the major modification process was too restrictive and the process hampered license modifications where the modifications could have led to improved hazardous waste management. Therefore, EPA decided to amend its license modification procedures to allow the licensee to initiate a modification. DEP is proposing to adopt the EPA changes with a few minor differences.

The proposed license modification procedure has three types of modifications. The Class 1 modifications are for routine changes such as changing typographical errors, upgrading plans and records maintained by the facility or replacing equipment with functionally equivalent equipment. In general, Class 1 changes are allowed without Department approval. Owners and operators must notify the public and the DEP once they have made the changes. In some instances, Department approval is required before the Class 1 change can be made.

Class 2 modifications are necessary to allow a licensee to manage different waste types and quantities, to upgrade waste technologies and to incorporate regulatory changes which can be implemented without substantially altering the design specifications or management practices prescribed in the license. A Class 2 modification begins with a modification request to the Department, public notice by the facility owner of a modification request, an informal meeting among the Department, the owner and the public and a 60-day comment period. Within 90 days of the receipt of the license modification request, the Department must approve or deny the request, extend the review period 30 days or approve of a temporary authorization for up to 180 days. The Department has to approve or deny the request or approve a temporary authorization by the end of the 30 day extension. If the Department or public are concerned that the modification does not protect public health, safety and welfare and the environment, then the Department can require Class 3 procedures to be followed.

Class 3 modifications are those changes that substantially alter the facility or its operations. The Class 3 procedures are the same as those for the major modifications in the current regulations. These regulations can be found at 310 CMR 30.852. The

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proposed regulation includes a listing of different types of permit modifications and the category of modification procedures in which they fall.

The Department is asking for public comment on the proposed license modification procedures. In the past, the Department has not promulgated regulations stipulating schedules for Departmental decisions. However, we want to provide efficient review of license modifications. Instead of relying on the schedules proposed in the license modification regulation, the Department is considering whether the proposed permit fees to be reviewed by the Legislature in spring 1990 and the associated timeframes for mandatory review would provide adequate assurances to the regulated community that their license modifications would be quickly reviewed.

Statistical Methods for Evaluating Ground-Water Monitoring Data

All land disposal facilities, whether operating or closed, must sample ground water and use a statistical procedure to evaluate the ground water data to determine whether hazardous wastes are contaminating the ground water. Concerns have been raised that the current sampling procedure may not be appropriate for the designated statistical procedure and the statistical procedure may not be appropriate to ground water monitoring. Hence, EPA revised both the sampling and statistical methods by requiring the owners or operators to more accurately characterize the hydrogeology and potential contaminants at the facility. These regulations are proposed at 310 CMR 30.660.

Additional Amendments required by RCRA

At 310 CMR 30.104(10) and 30.131 - 30.133, the Department is proposing additions and deletions to the lists of hazardous waste. The most significant amendments are those affecting the spent solvent waste codes: F001 through F005. Massachusetts is proposing to adopt the requirement that spent solvent mixtures of F001 through F005 solvents, of 10% or more, by volume, before use, be regulated as hazardous waste. EPA amended their regulations to include this requirement to close a loophole allowing mixtures of F001 - F005 wastes to escape regulation. Massachusetts currently has a waste code, MA03 for mixtures of F001 - F005 wastes that will be superseded by this proposed regulation.

We are also proposing several amendments to the interim status regulations. These amendments are found at 310 CMR 30.099(7), (8) and (24). The regulations provide greater flexibility to interim status facilities to increase design capacity to meet the regulatory requirements stemming from the Hazardous and Solid Waste Amendments to RCRA. For instance, with Department approval, an interim status facility could increase design capacity necessary to comply with Federal, State and local requirements or to comply with a corrective action order under HSWA Section 3008(h) authority.

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Current regulations require that any reconstruction of a facility which is in interim status, be limited to 50% of the cost of constructing a comparable new hazardous waste facility. The amendments allow facilities to make the following changes without being counted toward the reconstruction limit: handle newly listed wastes that have been previously treated or stored at the facility before the effective date of the listing, reconstruction made during closure or reconstruction required due to corrective action.

There is also a clarification in these proposed regulations that the Department has the authority to deny a license for the active life of the facility or unit while a decision on the post-closure permit is pending. Previously, the regulations had been interpreted to say that the denial of the active life of the license had to be done at the same time as issuance of the post-closure license.

PROPOSED REGULATORY CHANGES - STATE INITIATIVES

Amendments to the Manifest System

Our existing regulations require the use of the eight part manifest for transportation of hazardous wastes. However, waste oil generators and very small quantity generators (VSQGs) have different options under our current system. Waste oil from small quantity generators and VSQGs may be transported using a manifest or a waste log. VSQGs may self-transport their wastes to a facility or another generator for proper management using a receipt system in lieu of a manifest. In practice, the Department has found that most generators are using the manifest instead of the receipt or logging systems. As a result, over 500,000 manifest sheets are sent to the Department each year. This amount of paper has overwhelmed the data management system. Therefore, the Department is proposing an alternate approach that will reduce the paperwork burden for both the generators and the Department. It is anticipated that once this amendment is in place, the Department will receive approximately 100,000 manifests sheets yearly.

Instead of the eight-part manifest, generators of waste oil and VSQGs must use a four-part manifest. The generator will retain the first copy, the transporter will keep the second, the treatment, storage or disposal facility will retain the third copy and the last copy will be sent back to the generator from the treatment, storage or disposal facility to confirm waste receipt. This is the same manifest system as required by the federal government.

However, large quantity generators and small quantity generators who ship hazardous waste **and** waste oil on the same manifest must use the eight-part manifest. Waste oil coming into Massachusetts must also travel on an eight-part manifest. Waste oil being shipped outside of Massachusetts must travel on the manifest required by the destination state.

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The information normally available from the copies of the eight-part manifest sent to the Department, will now be obtained through the monthly operating reports supplied by the transporters. Transporters now submit paper copies of monthly operating reports detailing the **total quantity** of waste they ship each month. The amendment will require two major changes: First, transporters will be required to list **each shipment** of hazardous waste on the manifest on the monthly operating report. Second, these reports will have to be submitted on a file that is compatible with the Department's computer system. An exemption from the electronic filing requirement is allowed if the transporter does not have computer capabilities. Electronic submissions of data will improve Department access to the information and will substantially reduce the time required for data management by both DEP and the transporter.

One-Day Collections of Unwanted Pesticides

For the past year, a pesticide amnesty has been in effect. People storing banned or unusable pesticides that are hazardous wastes are exempt from the time and quantity limitations on hazardous waste storage under the 21C law. A coalition of pesticide users, the Department of Food and Agriculture and the Department of Environmental Protection have collaborated in developing a program for collection of these unwanted pesticides. Once regulatory amendments are final, a series of one-day pesticide collections will be planned throughout the state. These regulatory amendments allow:

- Certified pesticide applicators to self-transport quantities up to 55 gallons or 440 pounds of any waste pesticide to a one-day collection event;
- The licensed contractor at a collection event to accept up to 55 gallons or 440 pounds from any vehicle.
- Registration and training requirements for generators to be done by the organizer of the one-day collection event in a manner prescribed by the Department.

The regulations are effective until July 1, 1990 or as long as the pesticide amnesty is in effect. The regulations for self-transport of the pesticides are found at 310 CMR 30.362 and the one-day collection event regulations are at 310 CMR 30.394.

Joint Department of Public Safety and DEP Waste Oil Tank Regulations

The Department of Public Safety (DPS) and the DEP both have authority to regulate waste oil tanks and because of this shared jurisdiction, there has been some confusion about the requirements for waste oil tanks. When the Department of Public Safety modified their regulations for product storage tanks in November 1989, as required

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by EPA, they excluded waste oil tanks so that the DEP and DPS could jointly develop the regulations. These proposed regulations closely follow DPS's requirements for upgrading existing tanks found at 527 CMR 9.24. However, they are tailored for the smaller waste oil tanks. The exact same requirements for waste oil tanks will be proposed in DPS's regulations at 527 CMR 9.29 and are proposed here in the hazardous waste regulations at 310 CMR 30.253(h).

The proposed waste oil tank regulations require **weekly** dip sticking instead of the existing monthly requirement. Tanks are required to be upgraded with leak detection according to a strict schedule, spill prevention will be required by December 1990 and cathodic protection by December 1998. Until cathodic protection is in place, an annual tightness test is required. Acceptable methods of continuous leak detection include double walled tanks, an in-tank monitor and testing and monitoring for vapors within the soil gas of the excavation zone.

Transporter Amendments

The transporter regulations are being amended to require that each driver who transports hazardous wastes carry in the vehicle, a certification of transporter training for hazardous waste handling. The certification must have the licensee name and number, signature of the license holder and signature of the driver. Also a certification statement must be included. This amendment is found at 310 CMR 30.409.

Amendments for Waste Oil Collection Centers to allow Burning of Waste Oil in Space Heaters and Very Small Quantity Generator Amendments

Municipalities are allowed to collect waste oil from do-it-yourselfers and very small quantity generators (VSQGs) under the provisions of 310 CMR 30.393. Often, these waste oil collection centers are at public recycling centers or landfills. Our existing regulations require that this waste oil be transported from the collection point by licensed transporter. These proposed regulations would allow municipalities to transport the waste oil from the collection center to a municipally owned and operated space heater at another location to burn for energy recovery. Before burning the waste oil, it must be tested to determine whether it meets certain specifications such as flash point, PCB content, and halogens. The transport and testing requirements are found at 310 CMR 30.393(10). Space heaters are required to have a Class A recycling permit.

Another amendment [310 CMR 30.353(7)(a)] allows public or private operations under a single ownership, to service, with a single vehicle, multiple locations under their operation which qualify as VSQGs. For example, the Massachusetts Department of Public Works would be able to pick up waste oil from several of their VSQG locations and bring it to a Massachusetts Department of Public Works space heater for energy

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recovery. The transport would be limited to 55 gallons at any one time and would have to comply with the other self-transport requirements for VSQGs. In the current regulations, VSQGs who choose to move their wastes themselves must transport their own wastes to another generator or facility.

Other Proposed Amendments

There are a number of small amendments to the regulations that clarify or make minor adjustments. One amendment requires that when a container of acutely hazardous waste is empty, it should be labelled to say that it meets the definition of empty or it has been triple rinsed or safe for disposal. This change will eliminate confusion and reduce costs when empty drums which formerly contained acutely hazardous wastes are managed. Another amendment is to the waste oil generator regulations. The regulations concerning emergency planning and preparedness were difficult to interpret. Therefore, they have been moved from 310 CMR 30.253(9), (10) and (11) into 310 CMR 30.253(6). New 310 CMR 30.253(6) requires large quantity generators of waste oil only and large quantity generators of waste oil who are also very small quantity generators or small quantity generators of hazardous wastes to meet the emergency planning and preparedness requirements for small quantity generators in 310 CMR 30.351(9) instead of the contingency plan required by 310 CMR 30.520 - 30.524.

Further, a number of amendments are made to the generator requirements at 310 CMR 30.340 and to cross references 310 CMR 30.524 and 310 CMR 30.695. The time when the 90 day period of accumulation begins for large quantity generators has been changed to be consistent with the federal regulations. The proposed amendments [310 CMR 30.340(3)] states that the 90 day accumulation period begins when the drum leaves the satellite accumulation area or when the waste first is placed in the drum in the storage area. Our existing regulations allowed the accumulation time to begin when the generator exceeded the small quantity generator accumulation amounts. A second amendment resulted from some confusion about the management standards during satellite accumulation. The proposed regulation says that during satellite accumulation, the generator need only comply with the management standards in 310 CMR 30.340(4) and no other parts of 310 CMR 30.340 until the waste is in the drum storage area. A third amendment clarifies the requirement for a list of emergency phone numbers to be kept next to every telephone at the site of generation [310 CMR 30.524(2)(f)]. The emergency phone numbers need to be kept near the telephones at the site of accumulation, but not next to each phone. Finally, we have proposed an amendment to require that tanks holding hazardous wastes be closed during storage, except when the waste is being added or removed. [310 CMR 30.695(5)]

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Air Quality License Amendments

The Department held public hearings on February 27 and March 1, 1990 proposing amendments to its Regulation for the Control of Air Pollution - 310 CMR 7.00. Two of the principal changes proposed were to create a new limited application process and to preapprove certain construction, substantial reconstruction, or alteration at a facility without specific written Department approval provided that the applicant complies with specific regulations.

There are portions of the air pollution control regulations at 310 CMR 7.00 that are adopted under M.G.L. c. 21C as well as M.G.L. c. 111, sections 142A - J. Therefore, we are proposing some of the air amendments in this package of regulations. Such amendments allow the Department to treat used oil fuel burning in the same manner as was proposed in February for other fuel burning facilities.

Under the limited application process, the Department would still approve the application, but would not require as detailed an application. As part of the earlier amendments, the Department proposed to make fuel utilization facilities with an energy input capacity greater than or equal to 3,000,000 and less than 10,000,000 Btu per hour that burned used oil fuel subject to a limited application. Facilities larger than this size would still have to submit a full application unless specifically exempted by 310 CMR 7.03. The reason for proposing to create the limited application category is that the Department has determined that it does not represent the best utilization of its resources and it is an unwarranted burden on facilities to submit a full application for smaller facilities. This amendment is included here as 310 CMR 7.04(9)(a).

Proposed amendments in this package would add a new section to the air pollution regulations, first proposed in February 1990, to preapprove certain construction, substantial reconstruction, or alterations at a facility, provided that the facility complies with certain technical and recordkeeping requirements contained in the regulation. These new proposed amendments appear at 310 CMR 7.03(1)(c)(12). We are proposing to preapprove facilities to burn used oil fuel generated on site provided that they burn it in a fuel utilization facility approved to burn residual fuel oil, the oil will be diluted at least 100 to 1 with the residual oil before it is burned and the facility complies with all other requirements contained in 310 CMR 7.00 and 30.000.

The regulation at 310 CMR 7.05(9) is clarified to allow the burning of waste oil in space heaters generated by very small quantity generators as defined by 310 CMR 30.353, generated by households, collected at waste oil collection centers as described in 310 CMR 30.393(10) and generated at the sites where the space heaters are located.

Other amendments contained in this package would make portions of the 310 CMR 7.00 that were adopted pursuant to M.G.L. c. 21C consistent with those air pollution amendments proposed in February.

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PROCEDURES TO MODIFY HAZARDOUS WASTE LICENSES

1. 310 CMR 30.010 is hereby amended by inserting in place the following:-

Component means any constituent part of a unit or group of constituent parts of a unit which are assembled to perform a specific function (e.g. a pump seal, pump, kiln liner, kiln thermocouple)

Facility mailing list means the mailing list for a facility maintained by the Department in accordance with 310 CMR 30.833.

Functionally equivalent component means a component which performs the same function or measurement and which meets or exceeds the performance specifications of another component.

2. 310 CMR 30.593B(2)(a) is hereby amended by deleting the words "All applications to the Department for approval" and inserting in place thereof in subsection 92), division (a) the following:-

The owner or operator shall submit a written notification of or request for a license modification to authorize a change in the approved post-closure plan in

3. 310 CMR 30.822(9) is hereby amended by striking out 310 CMR 30.822(9)(c) and inserting in place thereof the following:-

(c) In advance report to the Department each planned change in the licensed facility or activity which might result in non-compliance with a term or condition of the license, except as provided in 310 CMR 30.852.

4. 310 CMR 30.851(1) is hereby amended by striking out said subsection and inserting in place thereof the following:-

If a license modification is requested by the licensee, the Department shall approve or deny the request according to the procedures to 310 CMR 30.852.

5. 310 CMR 30.852 is hereby amended by striking out said section and inserting in place thereof the following:-

30.852 License Modification at the request of the Licensee

(1) Class 1 modifications

(a) Except as provided in 310 CMR 30.852(1)(b), the licensee may put into effect Class 1 modifications listed in Table 310 CMR 30.852 pursuant to the following conditions:

1. The licensee shall notify the Department concerning

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the modification by certified mail or other means that establish proof of delivery within 7 calendar days after the change is put into effect. This notice shall specify the changes being made to license conditions or supporting documents referenced by the license and shall explain why they are necessary. Along with the notice, the licensee shall provide the information required by 310 CMR 30.801 through 30.804 and which is relevant to the modification request.

2. The licensee shall send a notice of the modification to all persons on the facility mailing list and the appropriate units of State and local government as specified in 310 CMR 30.833. This notification shall be made within 90 calendar days after the change is put into effect. For the Class 1 modifications that require prior Department approval, the notification shall be made within 90 calendar days after the Department approves the request.

3. Any person may request the Department to review, and the Department may for cause reject, any Class 1 modification. The Department shall inform the licensee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If the Class 1 modification has been rejected, the licensee shall comply with the original license conditions.

(b) Class 1 modifications identified in Table 310 CMR 30.852 with a footnote may be made only with the prior written approval of the Department.

(c) For a Class 1 license modification, the licensee may elect to follow the procedures in 310 CMR 30.852(2) for Class 2 modifications instead of Class 1 procedures. The licensee shall inform the Department of this decision in the notice required in 310 CMR 30.852(2)(a).

(2) Class 2 modifications.

(a) For Class 2 modifications listed in Table 310 CMR 30.852, the licensee shall submit a modification request to the Department that:

1. Describes the exact change to be made to the license conditions and supporting documents referenced by the license;
2. Identifies that the modification is a Class 2 modification;
3. Explains why the modification is needed; and
4. Provides the applicable information required by 310 CMR 30.801 through 30.804 and which is relevant to the modification request.

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(b) The licensee shall send a notice of the modification request to all persons on the facility mailing list and to the appropriate units of State and local government as specified in 310 CMR 30.833 and must publish this notice in a major local newspaper of general circulation. This notice shall be mailed and published within 7 days before or after the date of submission of the modification request, and the licensee shall provide to the Department evidence of the mailing and publication. The notice shall include:

1. Announcement of a 60-day comment period, in accordance with 310 CMR 30.852(2)(e), and the name and address of a Department contact to whom comment shall be sent;
2. Announcement of the date, time, and place for a public meeting held in accordance with 310 CMR 30.852(2)(d);
3. Name and telephone number of the licensee's contact person;
4. Name and telephone number of the Department's contact person;
5. Location where copies of the modification request and any supporting documents can be viewed and copied; and
6. The following statement: "The licensee's compliance history during the life of the license being modified is available from the Agency contact person."

(c) The licensee shall submit two copies of the license modification request and supporting documents to the Department and to the appropriate regional office to give the public opportunity to review the modification.

(d) The Department shall hold a public meeting no earlier than 15 days after the publication of the notice required in 310 CMR 30.852(2)(b) and no later than 15 days before the close of the 60-day comment period. The meeting shall be held to the extent practicable in the vicinity of the licensed facility.

(e) The public shall be provided 60 days to comment on the modification request. The comment period will begin on the date the licensee publishes the notice in the local newspaper. Comments shall be submitted to the Department contact identified in the public notice.

(f)

1. No later than 90 days after receipt of the notification request, the Department shall:
 - a. Approve the modification request, with or

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- without changes, and modify the license accordingly;
 - b. Deny the request;
 - c. Determine that the modification request shall follow the procedures in 310 CMR 30.852(3) for Class 3 modifications for the following reasons:
 - (i). There is significant public concern about the proposed modification; or
 - (ii). The complex nature of the change requires the more extensive procedures of Class 3.
 - d. Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days, or
 - e. Notify the licensee that Department will decide on the request within the next 30 days.
2. If the Department notifies the licensee of the 30-day extension for a decision, the Department shall, no later than 120 days after the receipt of the modification request:
- a. Approve the modification request, with or without changes, and modify the license accordingly;
 - b. Deny the request;
 - c. Determine that the modification request shall follow the procedures in 310 CMR 30.852(3) for Class 3 modifications for the following reasons:
 - (i). There is significant public concern about the proposed modification; or
 - (ii). The complex nature of the change requires the more extensive procedures of Class 3.
 - d. Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days.
- 3.
- a. In the case of a temporary authorization pursuant to 310 CMR 30.852(2)(f)1d or 30.852(2)(f)2d, if the Department has not made a final approval or denial of the modification request by the date 50 days prior to the end of the temporary authorization, the licensee shall within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:
 - (i) The licensee has been authorized temporarily to conduct the activities described in the license modification request, and

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(ii) Unless the Department acts to give final approval or denial of the request by the end of the authorization period, the licensee will receive authorization to conduct such activities for the life of the license.

b. If the owner/operator fails to notify the public by the date specified in 310 CMR 30.852(2)(f)3a, the effective date of the permanent authorization will be deferred until 50 days after the owner/operator notifies the public.

4. Except as provided in 310 CMR 30.852(2)(f)6, if the Department does not finally approve or deny a modification request before the end of the temporary authorization period or reclassify the modification as a Class 3, the licensee is authorized to conduct the activities described in the license modification request for the life of the license unless modified later pursuant to 310 CMR 30.851 or 30.852. The activities authorized pursuant to 310 CMR 30.852(2)(f)4 shall be conducted as described in the license modification request and shall be in compliance with all appropriate standards of 310 CMR 30.099(6).

5. In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the Department shall consider all written comments submitted to the Department during the public comment period.

6. With written consent of the licensee, the Department may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

(g) The Department may deny or change the terms of a Class 2 license modification request for the following reasons:

1. The modification request is incomplete;
2. The requested modification does not comply with the appropriate requirements of 310 CMR 30.500 and 30.600 or other applicable requirements; or
3. The reasons specified in 310 CMR 30.853(2).

(3) Class 3 modifications.

(a) For Class 3 modifications listed in Table 310 CMR 30.852, the licensee shall submit a modification request to the Department that:

1. Describes the exact change to be made to the license conditions and supporting documents referenced by the license;

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2. Identifies that the modification is a Class 3 modification;
3. Explains why the modification is needed; and
4. Provides the applicable information required by 310 CMR 30.801 through 30.804 and which is relevant to the modification request.

(b) The licensee shall send a notice of the modification request to all persons on the facility mailing list maintained by the Department and to the appropriate units of State and local government as specified in 310 CMR 30.833 and must publish this notice in a major local newspaper of general circulation. This notice shall be mailed and published within 7 days before or after the date of submission of the modification request, and the licensee shall provide to the Department evidence of the mailing and publication. The notice shall include:

1. Announcement of a 60-day comment period, in accordance with 310 CMR 30.852(2)(e), and the name and address of a Department contact to whom comment shall be sent;
2. Announcement of the date, time, and place for a public meeting held in accordance with 310 CMR 30.852(3)(d);
3. Name and telephone number of the licensee's contact person;
4. Name and telephone number of the Department's contact person;
5. Location where copies of the modification request and any supporting documents can be viewed and copied; and
6. The following statement: "The licensee's compliance history during the life of the license being modified is available from the Agency contact person."

(c) The licensee shall submit two copies of the license modification request and supporting documents to the Department and to the appropriate regional office to give the public opportunity to review the modification.

(d) The Department shall hold a public meeting no earlier than 15 days after the publication of the notice required in 310 CMR 30.852(3)(b) and no later than 15 days before the close of the 60-day comment period. The meeting shall be held to the extent practicable in the vicinity of the licensed facility.

(e) The public shall be provided 60 days to comment on the modification request. The comment period will begin on the date the licensee publishes the notice in the local newspaper. Comments shall be submitted to the Department contact

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identified in the public notice.

(f) After the conclusion of the 60-day comment period, the Department shall grant or deny the license modification request according to the license modification procedures of 310 CMR 30.890.

(4) Other modifications.

(a) In the case of modifications not explicitly listed in Table 310 CMR 30.852, the licensee may submit a Class 3 modification request to the Department, or the licensee may request a determination by the Director that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the licensee requests that the modification be classified as a Class 1 or 2 modification, the licensee shall provide the Department with the necessary information to support the requested classification.

(b) In determining the appropriate class for a specific modification, the Director shall consider the similarity of the modification to other modifications codified in Table 310 CMR 30.852 and the following criteria:

1. Class 1 modifications apply to minor changes that keep the license current with routine changes to the facility or its operation. These changes do not substantially alter the license conditions or reduce the capacity of the facility to protect public health, safety and welfare or the environment. In the case of Class 1 modifications, the Department may require prior approval.
2. Class 2 modifications apply to changes that are necessary to enable a licensee to respond, in a timely manner to:
 - a. Common variations in the types and quantities of the wastes managed pursuant to the facility license.
 - b. Technological advancements, and
 - c. Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the license.
3. Class 3 modifications substantially alter the facility or its operations.

(5) Public notice and appeals of license modification decisions.

(a) The Department shall notify persons on the facility mailing list and appropriate units of State and local government within 10 days of any decision pursuant to 310 CMR 30.852 to grant or deny a Class 2 or 3 license modification

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request.

(b) The Department's decision to grant or deny a Class 2 or 3 license modification request pursuant to 310 CMR 30.852 may be appealed pursuant to 310 CMR 30.890.

(6) Newly listed or identified wastes.

(a) The licensee is authorized to continue to manage wastes listed or identified as hazardous pursuant to 310 CMR 30.100 if the licensee:

1. Was in existence as a hazardous waste facility with respect to the newly listed or characterized waste on the effective date of the final rule listing or identifying the waste;
2. Submits a Class 1 modification request on or before the date on which the waste becomes subject to the new requirements;
3. Is in compliance with the standards of 310 CMR 30.099(6);
4. In the case of Classes 2 and 3 modifications, also submits a complete license modification request within 180 days after the effective date of the rule listing or identifying the waste; and
5. In the case of land disposal units, certifies that such unit is in compliance with all applicable 310 CMR 30.099(6) ground water monitoring and financial responsibility requirements on the date 12 months after the effective date of the rule identifying or listing the waste as hazardous. If the owner or operator fails to clarify compliance with these requirements, he or she shall lose authority to operate pursuant to 310 CMR 30.852.

(b) New wastes or units added to a facility's license pursuant to 310 CMR 30.852(6) do not constitute expansions for the purpose of the 25 percent capacity expansion limit for Class 2 modifications.

(7) License modification list. The Department shall maintain a list of all approved license modifications and shall publish a notice once a year in a State-wide newspaper that an updated list is available for review.

6. 310 CMR 30.852 is hereby further amended by inserting in place the following:-

Table 310 CMR 30.853 - Classification of License Modifications

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Modifications	Class
A. General Permit Provisions	
1. Administrative and informational changes.....	1
2. Correction of typographical errors.....	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls).....	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance.....	1
b. Other changes.....	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the Director.....	1
b. Extension of final compliance date.....	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Director.....	1
7. Changes in ownership or operational control of a facility, provided the procedures of § 270.40(b) are followed.....	1
B. General Facility Standards	
1. Changes to waste sampling or analysis methods:	
a. To conform with agency guidance or regulations.....	1
b. Other changes.....	2
2. Changes to analytical quality assurance/control plan:	
a. To conform with agency guidance or regulations.....	1
b. Other changes.....	2
3. Changes in procedures for maintaining the operating record.....	1
4. Changes in frequency or content of inspection schedules.....	2
5. Changes in the training plan:	
a. That affect the type or decrease the amount of training given to employees.....	2
b. Other changes.....	1
6. Contingency plan:	
a. Changes in emergency procedures (i.e., spill or release response procedures).....	2
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed.....	1
c. Removal of equipment from emergency equipment list.....	2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan.....	1
Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.	
C. Ground-Water Protection	
1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground-water monitoring system.....	2
b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.....	1
2. Changes in ground-water sampling or analysis procedures or monitoring schedule, with prior approval of the Director.....	1
3. Changes in statistical procedure for determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred, with prior approval of the Director.....	1
4. Changes in point of compliance.....	2
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):	
a. As specified in the groundwater protection standard.....	3
b. As specified in the detection monitoring program.....	2
6. Changes to a detection monitoring program as required by § 264.98(j), unless otherwise specified in this appendix.....	2
7. Compliance monitoring program:	
a. Addition of compliance monitoring program as required by §§ 264.98(h)(4) and 264.99.....	3
b. Changes to a compliance monitoring program as required by § 264.99(k), unless otherwise specified in this appendix.....	2
8. Corrective action program:	
a. Addition of a corrective action program as required by §§ 264.99(f)(2) and 264.100.....	3
b. Changes to a corrective action program as required by § 264.100(h), unless otherwise specified in this Appendix.....	2
D. Closure	
1. Changes to the closure plan:	
a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Director.....	1
b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Director.....	1
c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Director.....	1
d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Director.....	1
e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix.....	2
2. Creation of a new landfill unit as part of closure.....	3
3. Addition of the following new units to be used temporarily for closure activities:	
a. Surface impoundments.....	3
b. Incinerators.....	3
c. Waste piles that do not comply with § 264.250(c).....	3
d. Waste piles that comply with § 264.250(c).....	2
e. Tanks or containers (other than specified below).....	2
f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Director.....	1
E. Post-Closure	
1. Changes in name, address, or phone number of contact in post-closure plan.....	1
2. Extension of post-closure care period.....	2
3. Reduction in the post-closure care period.....	3
4. Changes to the expected year of final closure, where other permit conditions are not changed.....	1
5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure.....	2

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Modifications	Class
F. Containers	
1. Modification or addition of container units:	
a. Resulting in greater than 25% increase in the facility's container storage capacity.....	3
b. Resulting in up to 25% increase in the facility's container storage capacity.....	2
2.	
a. Modification of a container unit without increasing the capacity of the unit.....	2
b. Addition of a roof to a container unit without alteration of the containment system.....	1
3. Storage of different wastes in containers:	
a. That require additional or different management practices from those authorized in the permit.....	3
b. That do not require additional or different management practices from those authorized in the permit.....	2
Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
4. Other changes in container management practices (e.g., aisle space; types of containers; segregation).....	2
G. Tanks	
1:	
a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G(1)(c) and G(1)(d) of this appendix.....	3
b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G(1)(d) of this appendix.....	2
c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.....	2
d. After prior approval of the Director, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.....	1
2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit.....	2
3. Replacement of a tank with a tank that meets the same design standards and has a capacity within $\pm 10\%$ of the replaced tank provided:	1
—The capacity difference is no more than 1500 gallons,	
—The facility's permitted tank capacity is not increased, and	
—The replacement tank meets the same conditions in the permit.	
4. Modification of a tank management practice.....	2
5. Management of different wastes in tanks:	
a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit.....	3
b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit.....	2
Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
H. Surface Impoundments	
1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity.....	3
2. Replacement of a surface impoundment unit.....	3
3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system.....	2
4. Modification of a surface impoundment management practice.....	2
5. Treatment, storage, or disposal of different wastes in surface impoundments:	
a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.....	3
b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.....	2
Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
I. Enclosed Waste Piles. For all waste piles except those complying with § 264.250(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with § 264.250(c).	
1. Modification or addition of waste pile units:	
a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity.....	3
b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity.....	2
2. Modification of waste pile unit without increasing the capacity of the unit.....	2
3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit.	
4. Modification of a waste pile management practice.....	2
5. Storage or treatment of different wastes in waste piles:	
a. That require additional or different management practices or different design of the unit.....	3
b. That do not require additional or different management practices or different design of the unit.....	2
Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
J. Landfills and Unenclosed Waste Piles	
1. Modification or addition of landfill units that result in increasing the facility's disposal capacity.....	3
2. Replacement of a landfill.....	3
3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system.....	3
4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system.....	2
5. Modification of a landfill management practice.....	2
6. Landfill different wastes:	
a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.....	3
b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.....	2
Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	

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Modifications	Class
K. Land Treatment	
1. Lateral expansion of or other modification of a land treatment unit to increase areal extent	3
2. Modification of run-on control system	2
3. Modify run-off control system	3
4. Other modifications of land treatment unit component specifications or standards required in permit	2
5. Management of different wastes in land treatment units:	
a. That require a change in permit operating conditions or unit design specifications	3
b. That do not require a change in permit operating conditions or unit design specifications	2
Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
6. Modification of a land treatment unit management practice to:	
a. Increase rate or change method of waste application	3
b. Decrease rate of waste application	2
7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions	2
8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops	3
9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to § 264.278(g)(2)	3
10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements	3
11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements	2
12. Changes in background values for hazardous constituents in soil and soil-pore liquid	2
13. Changes in sampling, analysis, or statistical procedure	2
14. Changes in land treatment demonstration program prior to or during the demonstration	2
15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Director's prior approval has been received	3
16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Director	2
17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration	3
18. Changes in vegetative cover requirements for closure	2
L. Incinerators	
1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a waste feed rate limit, or an organic chlorine feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a waste feed limit, or an organic chlorine feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	2
3. Modification of an incinerator unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl or particulate from the combustion gases, or by changing other features of the incinerator that could affect its capability to meet the regulatory performance standards. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
4. Modification of an incinerator unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The Director may require a new trial burn to demonstrate compliance with the regulatory performance standards	2
5. Operating requirements:	
a. Modification of the limits specified in the permit for minimum combustion gas temperature, minimum combustion gas residence time, or oxygen concentration in the secondary combustion chamber. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls	3
c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit	2
6. Incineration of different wastes:	
a. If the waste contains a POHC that is more difficult to incinerate than authorized by the permit or if incineration of the waste requires compliance with different regulatory performance standards than specified in the permit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. If the waste does not contain a POHC that is more difficult to incinerate than authorized by the permit and if incineration of the waste does not require compliance with different regulatory performance standards than specified in the permit	2
Note: See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
7. Shakedown and trial burn:	
a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn	2
b. Authorization of up to an additional 720 hours of waste incineration during the shakedown period for determining operational readiness after construction, with the prior approval of the Director	1
c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Director	1
d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Director	1
8. Substitution of an alternate type of fuel that is not specified in the permit	1

¹ Class 1 modifications requiring prior Agency approval.

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STATISTICAL METHODS FOR EVALUATING GROUND-WATER MONITORING DATA

1. 310 CMR 30.662(1)(a) is hereby amended by inserting in place at the end of said division the following:-

Detected is defined as statistically significant evidence of increased contamination as described in 310 CMR 30.664(6).

2. 310 CMR 30.662(1)(b) is hereby amended by inserting in place at the end of said division the following:-

Exceeded is defined as statistically significant evidence of increased contamination as described in 310 CMR 30.671(4).

3. 310 CMR 30.663(1)(a) is hereby amended by striking out the word "and" and inserting after said division the following:-

1. A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

a. Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient; and

b. Sampling at other wells will provide an indication of background ground-water quality that is representative or more representative than that provided by upgradient wells; and

4. 310 CMR 30.663(1)(b) is amended by striking out the "period" and inserting in place a "semi-colon" followed by the word "and."

5. 310 CMR 30.663(1) is further amended by inserting after division (b) the following division:-

(c) Allow for the detection of contamination when hazardous waste or hazardous constituents have migrated from the waste management area to the uppermost aquifer.

6. 310 CMR 30.663(7) is hereby amended by striking out said subsection and inserting in place the following subsection:-

(7) In detection monitoring or where appropriate in compliance monitoring, data on each hazardous constituent specified in the license will be collected from background wells and wells at compliance point(s). The number and kinds of samples collected to establish background shall be appropriate for the form of statistical test employed, following generally accepted statistical principles. The sample size shall be as large as necessary to ensure with reasonable confidence that a contaminant release to ground water from a facility will be detected. The owner or

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operator will determine an appropriate sampling procedure and interval for each hazardous constituent listed in the facility license which shall be specified in the unit license upon approval by the Department. This sampling procedure shall be:

(a) A sequence of at least four samples, taken at an interval that assures, to the greatest extent technically feasible, that an independent sample is obtained, by reference to the uppermost aquifer's effective porosity, hydraulic conductivity, and hydraulic gradient, and the fate and transport characteristics of the potential contaminants, or

(b) An alternate sampling procedure proposed by the owner or operator and approved by the Department.

7. 310 CMR 30.663(8) is hereby amended by striking out said subsection and inserting in place the following subsection:-

(8) The owner or operator shall specify one of the following statistical methods to be used in evaluating ground-water monitoring data for each hazardous waste constituent which, upon approval by the Department, will be specified in the unit license. The statistical test chosen shall be conducted separately for each hazardous constituent in each well. Where practical quantification limits (pql's) are used in any of the following statistical procedures to comply with 310 CMR 30.663(8)(e), the pql shall be proposed by the owner or operator and approved by the Department. Use of any of the following statistical methods shall be protective of public health, safety and welfare and the environment and shall comply with the performance standards outlined in 310 CMR 30.663(8).

(a) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

(b) An analysis of variance (ANOVA) based on ranks followed by multiple comparison procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

(c) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper

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tolerance or prediction limit.

(d) A control chart approach that gives control limits for each constituent.

(e) Another statistical test method submitted by the owner or operator and approved by the Department.

8. 310 CMR 30.663 is hereby amended by inserting after subsection (9) the following two subsections:-

(10) Any statistical method chosen pursuant to 310 CMR 30.663(8) for specification in the unit license shall comply with the following performance standards, as appropriate:

(a) The statistical method used to evaluate ground-water monitoring data shall be appropriate for the distribution of chemical parameters or hazardous constituents. If the distribution of the chemical parameters or hazardous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data shall be transformed or a distribution-free theory test shall be used. If the distributions for the constituents differ more than one statistical method may be needed.

(b) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground-water protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparison procedure is used, the Type I experimentwise error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons shall be maintained. This performance standard does not apply to tolerance intervals, prediction intervals or control charts.

(c) If a control chart approach is used to evaluate ground-water monitoring data, the specific type of control chart and its associated parameter values shall be proposed by the owner or operator and approved by the Department if it is protective of public health, safety and welfare and the environment.

(d) If a tolerance interval or a prediction interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval shall contain, shall be proposed by the owner or operator and approved by the Department if these parameters are protective of public health, safety and welfare and the environment. These parameters will be

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determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

(e) The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of public health, safety and welfare and the environment. Any practical quantification limit (pql) approved by the Department pursuant to 310 CMR 30.663(8) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(f) If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(11) Ground-water monitoring data collected in accordance with 310 CMR 30.663(7), including actual levels of constituents shall be maintained in the facility operating record. The Department will specify in the license when the data shall be submitted for review.

9. 310 CMR 30.664 is hereby amended by striking out subsections (3), (4), (6), (7) and (8) and inserting the following subsections:-

(3) The owner or operator shall conduct a ground-water monitoring program for each chemical parameter and hazardous constituent specified in the license pursuant to 310 CMR 30.664(1) in accordance with 310 CMR 30.663(7). The owner or operator shall maintain a record of ground-water analytical data as measured and in a form necessary for determination of statistical significance pursuant to 310 CMR 30.663(7).

(4) The Department will specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or hazardous constituent specified in the license pursuant to 310 CMR 30.664(1) in accordance with 310 CMR 30.663(7). A sequence of at least four samples from each well (background and compliance wells) shall be collected at least semiannually during detection monitoring.

(6) The owner or operator shall determine whether there is statistically significant evidence of contamination for any chemical parameter or hazardous constituent specified in the license pursuant to 310 CMR 30.664(1) at a frequency specified pursuant to 310 CMR 30.664(4).

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(a) In determining whether statistically significant evidence of contamination exists, the owner or operator shall use the method(s) specified in the license pursuant to 310 CMR 30.663(8). These methods shall compare data collected at the compliance point(s) to the background ground-water quality data.

(b) The owner or operator shall determine whether there is statistically significant evidence of contamination at each monitoring well as the compliance point within a reasonable period of time after completion of sampling. The Department will specify in the facility license what period of time is reasonable, after considering complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground-water samples.

(7) If the owner or operator determines pursuant to 310 CMR 30.664(6) that there is statistically significant evidence of contamination for chemical parameters or hazardous constituents specified pursuant to 310 CMR 30.664(1) at any monitoring well at the compliance point, the owner or operator shall:

(a) Notify the Department of this finding in writing within seven days. The notification shall indicate what chemical parameters or hazardous constituents have shown statistically significant evidence of contamination.

(b) Immediately sample the ground water in all monitoring wells and determine whether constituents in 310 CMR 30.161 are present, and if so, in what concentration.

(c) For any 310 CMR 30.161 compounds found in the analysis pursuant to 310 CMR 30.664(7)(b), the owner or operator may resample within one month and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents shall form the basis for compliance monitoring. If the owner or operator does not resample for compounds found pursuant to 310 CMR 30.664(7)(b), the hazardous constituents found during the initial analysis for compounds in 310 CMR 30.161 shall form the basis for compliance monitoring.

(d) Within 90 days, submit to the Department an application for a license modification to establish a compliance monitoring program meeting the requirements of 310 CMR 30.671. The application shall include the following information:

1. An identification of the concentration or any 310 CMR 30.161 constituent detected in the ground water at each monitoring well at the compliance point;

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2. Any proposed changes to the ground-water monitoring system at the facility necessary to meet the requirements of 310 CMR 30.671;

3. Any proposed additions or changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical methods used at the facility necessary to meet the requirements of 310 CMR 30.671;

4. For each hazardous constituent detected at the compliance point, a proposed concentration limit pursuant to 310 CMR 30.667(1)(a) or (b), or a notice of intent to seek an alternate concentration limit pursuant to 310 CMR 30.667(2); and

(e) Within 180 days, submit to the Department:

1. All data necessary to justify an alternate concentration limit sought pursuant to 310 CMR 30.667(2); and

2. An engineering feasibility plan for a corrective action program necessary to meet the requirements of 310 CMR 30.672, unless:

a. All hazardous constituents identified pursuant to 310 CMR 30.664(7)(b) are listed in 310 CMR 30.668 and their concentrations do not exceed the respective values given in Table 30.668; or

b. The owner or operator has sought an alternate concentration limit pursuant to 310 CMR 30.667(2) for every hazardous constituent identified pursuant to 310 CMR 30.664(7)(b).

(f) If the owner or operator determines, pursuant to 310 CMR 30.664(6), that there is a statistically significant difference for chemical parameters or hazardous constituents specified pursuant to 310 CMR 30.664(1) at any monitoring well at the compliance point, the owner or operator shall demonstrate that a source other than a regulated unit has caused the contamination or that the detection is an artifact caused by error in sampling, analysis, or statistical evaluation or natural variation in ground water. The owner or operator shall make a demonstration pursuant to 310 CMR 30.664(7)(f) in addition to, or in lieu of, submitting a license modification application pursuant to 310 CMR 30.664(7)(d); however, the owner or operator is not relieved of the requirement to submit a license modification application within the time specified in 310 CMR 30.664(7)(d) unless the demonstration made pursuant to 310 CMR 30.664(7)(f) successfully shows that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis or evaluation. In making a demonstration pursuant to 310 CMR 30.664(7)(f), the owner or operator shall:

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1. Notify the Department in writing within seven days of determining statistically significant evidence of contamination at the compliance point that the owner or operator intends to make a demonstration pursuant to 310 CMR 30.664(7)(f);
2. Within 90 days, submit a report to the Department which demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from an error in sampling, analysis, or evaluation;
3. Within 90 days, submit to the Department an application for a license modification to make any appropriate changes to the detection monitoring program; and
4. Continue to monitor in accordance with the detection monitoring program established pursuant to 310 CMR 30.664.

(8) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of 310 CMR 30.664, the owner or operator shall, within 90 days, submit an application for license modification to make any appropriate changes to the program.

10. 310 CMR 30.664 is hereby amended by striking out subsections 310 CMR 30.664(9), (10) and (11).

11. 310 CMR 30.665 is hereby amended by striking out the words "entering" in the first sentence and inserting in place thereof the following:- "detected in".

12. 310 CMR 30.665 is hereby further amended by striking out the words "have entered" in the third sentence and inserting in place thereof the following:- "have been detected".

13. 310 CMR 30.671 is hereby amended by striking out 310 CMR 30.671(3), (4), (6) and (7) and inserting the following subsections:-

(3) The Department will specify the sampling procedures and statistical methods appropriate for the constituents and the facility, consistent with 310 CMR 30.664(7) and (8).

(a) The owner or operator shall conduct a sampling program for each chemical parameter or hazardous constituent in accordance with 310 CMR 30.664(7).

(b) The owner or operator shall record ground-water analytical data as measured and in a form necessary for the determination of statistical significance pursuant to 310 CMR 30.664(8) for

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the compliance period of the facility.

(4) The owner or operator shall determine whether there is statistically significant evidence of increased contamination for any chemical parameter or hazardous constituent specified in the license, pursuant to 310 CMR 30.671(1), at a frequency specified pursuant to 310 CMR 30.671(6).

(a) In determining whether statistically significant evidence of increased contamination exists, the owner or operator shall use the method(s) specified in the license pursuant to 310 CMR 30.663(8). The method(s) shall compare data collected at the compliance point(s) to a concentration limit developed in accordance with 310 CMR 30.667.

(b) The owner or operator shall determine whether there is statistically significant evidence of increased contamination at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The Department will specify that time period in the facility license, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground-water samples.

(6) The Department will specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with 310 CMR 30.663(7). A sequence of at least four samples from each well (background and compliance wells) shall be collected at least semi-annually during the compliance period of the facility.

(7) The owner or operator shall analyze samples from all monitoring wells at the compliance point for all constituents contained in 310 CMR 30.161 at least annually to determine whether additional hazardous constituents are present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in 310 CMR 30.664(6). If the owner or operator finds constituents in 310 CMR 30.161 in the ground water that are already identified in the license as monitoring constituents, the owner or operator may resample within one month and repeat the 310 CMR 30.161 analysis. If the second analysis confirms the presence of new constituents, the owner or operator shall report the concentration of these additional constituents to the Department within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she shall report the concentrations of these additional constituents to the Department within seven days after completion of the initial analysis and add them to the monitoring list.

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14. 310 CMR 30.671(8) is hereby deleted.

15. 310 CMR 30.671 is hereby amended by striking out the introductory paragraph of subsection 310 CMR 30.671(9) and inserting in the following subsection:-

(8) If the owner or operator determines pursuant to 310 CMR 30.671(4) that any concentration limits pursuant to 310 CMR 30.667 are being exceeded at any monitoring well at the point of compliance the owner or operator shall:

16. 310 CMR 30.671 is hereby amended by striking out the introductory paragraph of subsection 310 CMR 30.671(10) and inserting the following subsection:-

(9) If the owner or operator determines pursuant to 310 CMR 30.671(4) that the ground-water concentration limits pursuant to 310 CMR 30.671 are being exceeded at any monitoring well at the point of compliance, the owner or operator shall demonstrate a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. In making a demonstration pursuant to 310 CMR 30.671(9), the owner or operator shall:

17. 310 CMR 30.671 is hereby further amended by renumbering subsection 310 CMR 30.671(11) as 30.671(10).

18. 310 CMR 30.671(12) is hereby deleted.

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HAZARDOUS WASTE LISTINGS

1. 310 CMR 30.104(10) is hereby amended by inserting in place at the end of said subsection the following:-

For the purposes of 310 CMR 30.104(10), hazardous waste from the processing of ores and minerals does not include:

(a) Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production;

(b) Surface impoundment solids contained in the dredge from surface impoundments at primary lead smelting facilities;

(c) Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production;

(d) Spent potliners from primary aluminum reduction;

(e) Emission control dust or sludge from ferrochromium production.

(f) Emission control dust or sludge from ferrochromium production.

2. 310 CMR 30.131 is hereby amended by striking out the words "and sludges from the recovery of these solvents in degreasing operations" from the definition of the F001 waste code and inserting in place thereof the following:-

all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

3. 310 CMR 30.131 is hereby further amended by striking out the word "and" after the word "ortho-dichlorobenzene" and inserting after the word "trichlorofluoromethane" in the definition of F002 the following:- "and 1,1,2-trichloroethane;".

4. 310 CMR 30.131 is hereby further amended by striking out the words "and still bottoms from the recovery of these solvents" from the definition of the F002 waste code and inserting in place thereof the following:-

all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F001,

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F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

5. 310 CMR 30.131 is hereby further amended by striking out the words "and still bottoms from the recovery of these solvents" from the definition of the **F003** waste code and inserting in place thereof the following:-

all spent solvent mixtures/blends containing, before use, only the above spent nonhalogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004 and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

6. 310 CMR 30.131 is hereby further amended by striking out the words "and still bottoms from the recovery of these solvents" from the definition of the **F004** waste code and inserting in place thereof the following:-

all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

7. 310 CMR 30.131 is hereby further amended by striking out the word "and" after the word "isobutanol" and inserting after the word "pyridine" in the definition of **F005** the following:- "and benzene, 2-ethoxyethanol, 2-nitropropane;".

8. 310 CMR 30.131 is hereby further amended by striking out the words "and still bottoms from the recovery of these solvents" from the definition of the **F005** waste code and inserting in place thereof the following:-

all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, and F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

9. 310 CMR 30.131 is hereby further amended by striking out the definition of MA03.

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10. 310 CMR 30.132 is hereby amended by inserting in place under the heading Organic Chemicals in proper order the following:-

- K111 Product washwaters from the production of dinitrotoluene via nitration of toluene. (C,T)
- K112 Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.
- K113 Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
- K114 Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
- K115 Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
- K116 Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.
- K117 Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene.
- K118 Spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.
- K135 Still bottoms from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene.

11. 310 CMR 30.132 is hereby amended by inserting in place under the heading Pesticides in proper order the following:-

- K123 Process wastewater (including supernates, filtrates, and washwaters) from the production of ethylenebisdithiocarbamic acid and its salts.
- K124 Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts. (C,T)

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- K125 Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts.
- K126 Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts.

12. 310 CMR 30.132 is hereby further amended by inserting in place after the words "Iron and Steel" and before the words "Secondary Lead", the following:-

Primary
copper:

- K064 Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production.

Primary
lead:

- K065 Surface impoundment solids contained in the dredge from surface impoundments at primary lead smelting facilities;

Primary
zinc:

- K066 Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production;

Primary
aluminum:

- K088 Spent potliners from primary aluminum reduction;

Ferroalloys:

- K090 Emission control dust or sludge from ferrochromium production.
- K091 Emission control dust or sludge from ferrochromium production.

13. 310 CMR 30.133 is hereby amended by striking out the following:- "U139 9004-66-4 Iron dextran".

14. 310 CMR 30.136 is hereby amended by striking out the following:- "P107 1314-96-1 Strontium sulfide" and "P107 1314-96-1 Strontium sulfide SrS".

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15. 310 CMR 30.160 is hereby amended by striking out the following:- "Iron dextran Same 9004-66-4 U139".

16. 310 CMR 30.160 is hereby amended by striking out the following:- "Strontium sulfide Same 1314-96-1 P107".

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ADDITIONAL AMENDMENTS REQUIRED BY RCRA

1. 310 CMR 30.099(7) and (8) is hereby amended by striking out said subsections and inserting in place thereof the following:-

(7) Except as provided in 310 CMR 30.099(8), the owner or operator of an interim status facility may make the following changes at the facility:

(a) Treatment, storage or disposal of new hazardous wastes not previously identified in Part A of the license application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the hazardous wastes on the effective date of the listing or identification) if the owner or operator submits a revised Part A license application prior to such treatment, storage or disposal;

(b) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A license application prior to such a change (along with a justification explaining the need for the change) and the Department approves the changes because:

1. There is lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities; or
2. The change is necessary to comply with a Federal, State or local requirement.

(c) Changes in the processes for the treatment, storage, or disposal of hazardous waste or addition of processes if the owner or operator submits a revised Part A license application prior to such change, along with a justification explaining the need for the change, and the Director approves the change because:

1. The change is necessary to prevent a threat to public health, safety and welfare and the environment because of an emergency situation, or
2. The change is necessary to comply with a Federal, State or local requirement.

(d) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A license application no later than 90 days prior to the scheduled change. When a transfer of operational control occurs, the old owner or operator shall comply with the requirements of 310 CMR 30.099(6)(c) until the new owner or operator has demonstrated to the Department that he or she is complying with the requirements of 310 CMR 30.099(6)(c). The new owner or operator shall demonstrate compliance with 310

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CMR 30.099(6)(c) within six months of the date of the change in ownership or operational control of the facility. Upon demonstration to the Department by the new owner or operator of compliance with 30.099(6)(c), the Department shall notify the old owner or operator in writing that he or she no longer needs to comply with 30.099(6)(c) as of the date of the demonstration. All other interim status duties shall be transferred effective immediately upon the date of the change in ownership or operational control of the facility.

(e) Changes made in accordance with an interim status corrective action order issued by EPA pursuant to section 3008(h) or other Federal authority, corrective action undertaken pursuant to M.G.L. c. 21C or M.G.L. c. 21E, or corrective action ordered by a court in a judicial action brought by EPA or by an authorized state. Changes pursuant to 310 CMR 30.099(7) are limited to the treatment, storage, or disposal of hazardous waste from releases that originate within the boundary of the facility.

(8) Except as specifically allowed pursuant to 310 CMR 30.099(8), changes listed in 310 CMR 30.099(7) may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to reconstruction:

(a) Changes made solely for the purposes of complying with the requirements of 310 CMR 30.694 for tanks and ancillary equipment.

(b) If necessary to comply with Federal, State or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of RCRA Section 3004(o).

(c) Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(d) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

(e) Changes necessary to comply with an interim status corrective action order issued by EPA pursuant to section

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3008(h) or other Federal authority, corrective action undertaken pursuant to M.G.L. c. 21C or M.G.L. c. 21E, or corrective action ordered pursuant to Chapter c.21E, or by a court in a judicial action brought by EPA or by an authorized State provided that such changes are limited to the treatment, storage, or disposal of hazardous waste from releases that originate within the boundary of the facility.

(f) Changes to treat or store, in tanks or containers, hazardous wastes subject to land disposal restrictions imposed by 310 CMR 30.750, provided that such changes are made solely for the purpose of complying with 310 CMR 30.750.

2. 310 CMR 30.831 is hereby amended by inserting immediately following subsection (4) the following subsection:-

(5) The Director may deny a license for the active life of a hazardous waste management facility or unit before receiving a complete application for a license.

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AMENDMENTS TO THE MANIFEST SYSTEM

1. 310 CMR 30.099(23)(b)6a is hereby amended by striking out "30.314" and inserting in place thereof the following:- "30.316."

2. 310 CMR 30.311 is hereby amended by inserting immediately after subsection (6) the following subsection:-

(7) Very small quantity generators of hazardous waste and waste oil managed in compliance with 310 CMR 30.200, and large quantity generators and small quantity generators of waste oil managed in compliance with 310 CMR 30.200 shall comply with the manifest requirements set forth in 310 CMR 30.316 instead of those set forth in 310 CMR 30.313 through 30.315. 310 CMR 30.316 applies to those large quantity generators and small quantity generators of waste oil who are shipping only waste oil. Small quantity generators and large quantity generators who are shipping quantities of waste oil together with quantities of hazardous waste shall comply with the eight-part manifest requirements set forth in 310 CMR 30.313. Generators located outside of Massachusetts who are shipping hazardous wastes into Massachusetts shall use the eight part manifest required by 310 CMR 30.313. Generators who are shipping hazardous wastes to a facility located outside of Massachusetts shall use the manifest of the destination state.

3. 310 CMR 30.313 is hereby amended by striking out the heading and inserting in place thereof the following:-

30.313: Number and Distribution of Copies for Eight-Part Manifest

4. 310 CMR 30.310 is hereby amended by inserting immediately after Section 30.315 following section:-

30.316: Four-Part Manifest for VSQG Waste and Waste Oil

(1) The manifest shall consist of four copies, numbered from top to bottom respectively, as Copy 1, Copy 2, Copy 3 and Copy 4. These copies shall be signed, distributed and retained as set forth in 310 CMR 30.316(1) through (4).

- (a) Copy 4 shall be
 - 1. signed by the generator and transporter, and then
 - 2. retained by the generator.
- (b) Copy 3 shall be
 - 1. signed by the generator and transporter, and by either the continuing transporter (if any) or by the facility owner or operator or his designee, and then
 - 2. retained by the first transporter. If the hazardous waste is transported by a continuing transporter, said

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continuing transporter shall (1) photocopy Copy 1 of the manifest after the facility owner or operator or his designee has signed it and (2) retain the photocopy.

- (c) Copy 2 shall be
 - 1. signed by the generator, the transporter(s), and the facility owner or operator or his designee, and then
 - 2. retained by the facility.
- (d) Copy 1 shall be
 - 1. signed by the generator, the transporter(s), and the facility owner or operator or his designee, and then
 - 2. within fourteen (14) days of the date the shipment is received by the facility, transmitted by the facility to the generator.

(2) The very small quantity generator, small quantity generator and large quantity generator using the four-part manifest required by 310 CMR 30.316(1) shall comply with 310 CMR 30.311, 30.312 and 310 CMR 30.314(1)(a) through (c), (2), (3) and (4).

5. 310 CMR 30.331(1) is hereby amended by deleting from the first sentence the section "30.314" and inserting in place thereof the following:- "30.316."

6. 310 CMR 30.351(10)(e) is hereby amended by striking out "30.314" and inserting in place thereof the following:- "30.316."

7. 310 CMR 30.407 is hereby amended by striking out 30.407(1) and inserting in place thereof the following:-

(1) All transporters licensed by the Department pursuant to 310 CMR 30.000 shall submit monthly operating reports to the Department no later than the last day of the following month, except for transporters using the two-part manifest described in 310 CMR 30.315. If no hazardous wastes are handled in a particular month, a monthly operating report stating that fact shall be submitted. Such reports shall be on a machine readable file in a format prescribed by the Department and shall include, but not be limited to, for each shipment of hazardous waste the following information:

- (a) Generator EPA identification number, name, generator city, generator state, generator zipcode, site address;
- (b) State manifest document number;
- (c) Transporter(s) EPA identification number, transporter(s) State identification number;
- (d) Designated facility EPA identification number;
- (e) Number of containers, type of containers, total quantity, units, waste number, and handling code, for each waste stream;
- (f) Generator certification date, Transporter(s) signature

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date, designated facility signature date.

(g) Special handling instructions; and

(h) Discrepancy indication.

8. 310 CMR 30.407 is hereby further amended by inserting immediately after subsection (4) the following subsection:-

(5) Transporters who are unable to comply with the requirement to submit the monthly operating report on a machine readable file shall apply to the Department for a conditional exemption stating the reasons. An exemption from this requirement is not granted until the Department approves the request in writing.

9. 310 CMR 30.532 is hereby amended by inserting after subsection (5) the following subsection:-

(5) Upon receipt by a facility of hazardous waste on a four-part manifest, the owner or operator or his agent shall comply with 310 CMR 30.532 except for 310 CMR 30.532(1)(e) and 30.532(3)(e).

10. 310 CMR 30.824(1)(b) is hereby amended by deleting from the first line "30.314" and inserting in place thereof the following:-
"30.316."

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ONE-DAY COLLECTIONS OF UNWANTED PESTICIDES

1. 310 CMR 30.360 is hereby amended by inserting the following section:-

30.362: Self-Transport of Pesticides (Effective through July 1, 1990)

(1) Generators of pesticides subject to 310 CMR 30.000, shall be allowed to transport such pesticides off the site of generation without having to obtain a license to transport such pesticides in which the pesticides are transported provided that:

(a) No more than 55 gallons or 440 pounds are transported in any vehicle; and

(b) The pesticides are brought to a one-day event for the accumulation of pesticides conducted in accordance with 310 CMR 30.394; and

(c) The generator complies with the self-transport requirements of 310 CMR 30.353(7)(a) through (c), (f), (g), (i), (j) and (l); and

(d) The generator is certified as a commercial or private applicator in accordance with 333 CMR 10.000.

(e) The generator shall carry information on the type and quantity of pesticides while transporting the pesticides from the site of generation to the event in a manner prescribed by the Department.

2. 310 CMR 30.390 is hereby amended by inserting the following section:-

30.394: One-Day Event for the Accumulation of Pesticides (Effective through July 1, 1990)

(1) Applicability and Compliance. An organizer may conduct a one day event for the accumulation of pesticides provided that the event is in compliance with the requirements set forth or referred to in 310 CMR 30.392. The organizer shall be responsible for compliance with the requirements set forth or referred to in 310 CMR 30.392(2) through (6). The transporter retained by the organizer shall be responsible for compliance with the requirements set forth or referred to in 310 CMR 30.392(7), except that either the organizer or transporter shall be deemed the generator of the waste accepted at the event.

(2) For the purposes of compliance with 310 CMR 30.394, an event shall mean a one-day event 1) in which an organizer offers to accept pesticides regulated pursuant to 310 CMR 30.000, 2) which is in compliance with 310 CMR 30.394 and 3) at which an organizer does not intend to, and does not, accumulate hazardous waste for more than twenty-four (24) hours.

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(3) The organizer shall provide a copy of the manifest to the Department with a record of all wastes collected at the event, signed by the designated generator(s), licensed transporter(s) and the receiving facility(ies).

(4) The organizer shall register all participants and provide mandatory training in a manner prescribed by the Department.

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REGULATIONS FOR UNDERGROUND WASTE OIL TANKS

1. 310 CMR 30.253(1)(h) is hereby amended by deleting said division and inserting in place of the following division:-

(h) may accumulate or store waste oil or used oil fuel in an existing underground tank only if, on and after December 31, 1984, the tank is in compliance with the following provisions:

1. Existing waste oil underground storage tanks shall have weekly tank gauging conducted according to the following requirements:

a. Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;

b. Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;

c. The equipment used is capable of measuring the level of waste oil over the full range of the tank's height to the nearest one-eighth of an inch; and

d. A leak is suspected and subject to the requirements of 527 CMR 9.20 and 310 CMR 30.697 if the variation between beginning and ending measurements exceeds the weekly standards or the standards derived from averaging four consecutive weekly tests. (For example, the averaging shall be done as follows: average weeks 1 - 4, average weeks 5 - 8 etc.) The standards are in the following table:

Nominal Tank Capacity Std.	Weekly Standard (one test)	Monthly (avg. of four tests)
550 gallons or less	10 gallons	5 gallons
551 - 1000 gallons	13 gallons	7 gallons
1001 - 2000 gallons	25 gallons	13 gallons

e. The beginning and ending measurements, variation and average figures shall be placed in a log and retained until taken out of service in compliance with 527 CMR 9.22.

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2. To prevent spilling associated with transfer of waste oil to the underground storage tank system, the underground storage tank system shall have the following spill prevention equipment on or before December 22, 1990:

a. A spill prevention device that shall be at a minimum, a removable funnel with at least a 12 inch diameter to prevent dripping and spillage when filling. The tank shall have a tight-fitting cap which shall be closed when not in use; and

3. Owners or operators shall ensure that releases due to overfilling do not occur. The owner or operators shall ensure that the volume available in the tank is greater than the volume of waste oil to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling.

4. All existing tanks shall be equipped one of the following methods of continuous leak detection:

a. A double walled tank with an approved interstitial space monitor required by 527 CMR 9.08.

b. An in-tank monitor installed and maintained by a qualified person in accordance with 527 CMR 9.11(2)(b).

c. Testing or monitoring for vapors within the soil gas of the excavation zone. The vapor monitoring system shall detect releases from any portion of the tank that routinely contains the waste oil and shall be designed and operated to detect any significant increase in concentration above background of waste oil, a component or components of waste oil or tracer compound placed in the tank system.

The following schedule shall be required for the upgrade of leak detection devices on existing underground waste oil tanks:

IF THE TANK WAS INSTALLED	LEAK DETECTION REQUIRED BY DEC. 22
Before 1969 or unknown	1990
1970 - 1974	1991
1975 - 1979	1992
1980 - Dec. 1988	1993

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5. If the facility has unprotected steel tanks and/or piping, they shall be retrofitted with cathodic protection by December 22, 1998. Until cathodic protection has been added, an annual tightness test shall be required.
 6. A tightness test shall be done on both the tank and piping within one month before adding cathodic protection as well as six to twelve months after cathodic protection has been added.
 7. If the tank does not have leak detection installed in accordance with the upgrade schedule required by 310 CMR 30.253(1)(h)4, but has a spill containment, overfill prevention measures and cathodic protection, the tank shall be tightness tested during the 5th, 10th, and 15th year after installation, and at five-year intervals thereafter until 1998.
 8. If the tank does not have leak detection installed in accordance with the schedule in 310 CMR 30.253(1)(h)4 and does not have spill containment, overfill prevention measures and cathodic protection, the tank shall be tightness tested once every year until December 22, 1998.
- NOTE: Refer to 527 CMR 9.20, 9.22 and 9.23 and 310 CMR 30.697 and 30.699 for procedures on how to respond if there is a leak and for procedures to take tanks out of service.
9. If the tank does not have leak detection installed and if the tank is not retrofitted with cathodic protection by December 22, 1998, the owner/operator shall have the tank removed from the ground on or before December 22, 1998.
 10. All pressurized piping shall meet one of the following requirements by December 22, 1990:

- a. If the piping has secondary containment, an approved interstitial space monitor may be used.
- b. An automatic flow restrictor, an automatic shutoff device, or a continuous alarm system shall be installed. These devices shall accurately detect a leak of three gallons per hour with the probability of detection of 0.99 and a probability of false alarm of 0.01. If this option is utilized, the piping shall be required to be tightness tested on an annual basis or monthly monitoring for vapors in the soil shall be performed and documented.

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11. If a European Suction System is used, leak detection is not required on the piping.

12. If a suction system is used which is not a European Suction System, one of the following leak detection options shall be required for the piping:

- a. If the piping has secondary containment, an approved interstitial space monitor shall be used.
- b. A tightness test shall be conducted every three years.

13. The provisions of 527 CMR 9.26(4) shall be complied with when adding any of the above-mentioned devices.

14. Written notification shall be given to the head of the fire department in the city or town where the tank is located before upgrading begins clearly describing what devices will be installed.

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TRANSPORTER AMENDMENTS

1. 310 CMR 30.402 is hereby amended by inserting immediately after subsection (4) the following subsection:-

(5) A written certification of hazardous waste transporter training in accordance with 310 CMR 30.409(4).

2. 310 CMR 30.409 is hereby amended by inserting immediately after subsection (3) the following subsection:-

(4) Each vehicle driver of the licensed transporter, shall carry in the vehicle, at all times while transporting hazardous waste, a certification of hazardous waste transporter training which shall include the following:

(a) The licensee name and number, signature of the license holder, signature of the driver, EPA identification number, and dates when signed; and

(b) A statement which says: I ^{license holder} , hereby certify pursuant to M.G.L. c. 21C that ^{driver's name} holder of driver's license # _____, Class _____, in State of _____, has successfully completed training in the transportation of hazardous waste required by 310 CMR 30.409 of the Massachusetts Hazardous Regulations. I understand that the driver certified here may be subject to examination at the time of vehicle inspection.

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**AMENDMENTS FOR WASTE OIL COLLECTION CENTERS
TO ALLOW BURNING OF WASTE OIL IN SPACE HEATERS
AND VERY SMALL QUANTITY GENERATOR AMENDMENTS**

1. 310 CMR 30.212 is hereby amended by inserting after subsection (9) the following subsection:-

(10) Waste oil collected at a waste oil collection center operated in compliance with 310 CMR 30.393, if recycled in compliance with 310 CMR 30.220 and 310 CMR 30.393(10).

2. 310 CMR 30.212 is hereby further amended by renumbering subsections 30.212(10) and 30.212(11) as 30.212(11) and 30.212(12), respectively.

3. 310 CMR 30.274(6) is hereby amended by striking out subdivisions (1) and inserting immediately before subdivision (2) the following subdivision:-

1. a generator managing a hazardous waste, or

4. 310 CMR 30.353(5) is hereby amended by striking out the second sentence "Except as otherwise specified in 310 CMR 30.353(5), such registration shall be in compliance with 310 CMR 30.060 through 30.064." and the sixth sentence "Except as provided in 310 CMR 30.353(10), a very small quantity generator need not obtain an EPA identification number."

5. 310 CMR 30.353(5) is hereby further amended by striking out the last two sentences in said subsection and inserting in place thereof the following:-

If the site has an EPA identification number, or has been assigned an identification number by DEP, that number shall be included in the registration. An identification number for the site is required if the very small quantity generator is using a manifest.

6. 310 CMR 30.353(7) is hereby amended by redesignating divisions (b) through (k) as (c) through (j) and inserting immediately before division (c) the following division:-

(b) Notwithstanding 310 CMR 30.353(7)(a), a generator may collect and transport hazardous wastes from another generator provided that such transport is done in compliance with 310 CMR 30.353(7) and:

1. every generator from whom waste is collected is a registered VSQG; and
2. every generator has the same owner or operator as the generator who collects and transports the waste.

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7. Newly designated 310 CMR 30.353(7)(j) is hereby amended by striking out said division and inserting in place thereof the following:-

(j) The vehicle in which the hazardous waste is transported shall go directly to the intended destination, without any stops or detours in between except those allowed pursuant to 310 CMR 30.353(7)(b) and those reasonably and immediately necessary in response to road conditions, the driver's need for nourishment or rest, the vehicle's need for service or maintenance, or emergencies.

8. 310 CMR 30.393(8)(b) is hereby amended by deleting from the first sentence the words ", and brake fluid" and inserting the word "and" immediately after the word "hydraulic oil."

9. 310 CMR 30.393 is hereby amended by inserting the following subsection:-

(10) Standards for waste oil to be Recycled in Used Oil Fuel Fired Space Heaters.

(a) An organizer of a waste oil collection center intending to recycle waste oil by burning it in a used oil fuel fired space heater operated in accordance with 310 CMR 30.220 and operated by the same organizer shall test each batch of waste oil to determine if it meets the allowable levels of any constituent or property as set forth in Table 310 CMR 30.393(10). If such waste oil exceeds the levels in Table 310 CMR 30.393(10), it shall be managed as a hazardous waste; and

(b) If the site of the waste oil collection center and the site of the used oil fuel fired space heater is different, the organizer of the waste oil collection center shall be allowed to transport such waste oil to a used oil fuel fired space heater operated by the same organizer provided that such transport is done in compliance with 310 CMR 30.353(7)(c), (f), (g), (i) and (l).

Table 310 CMR 30.393(10)

PCBs	2 ppm maximum
Flash Point	100 deg. F. minimum
Total halogens	1000 ppm maximum

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OTHER PROPOSED AMENDMENTS

1. 310 CMR 30.010 is hereby amended by inserting immediately after division (3), subdivision (c) in the definition of Empty Container the following subdivision:-

(d) the container held acutely hazardous wastes, it shall be labelled "safe for disposal", "triple rinsed", or "processed to meet the definition of empty" once it meets the definition of empty container.

2. 310 CMR 30.064(1) is hereby amended by striking out said subsection and renumbering 310 CMR 30.064(2) and (3) as 310 CMR 30.064(1) and (2), respectively.

3. 310 CMR 30.253(5)(b) is hereby amended by inserting immediately after the first sentence the following:-

All areas where waste oil and/or used oil fuel is accumulated or stored shall have posted at all times a sign with the words "WASTE OIL" in capital letters at least one inch high. Each sign shall meet the guidelines set forth in the National Fire Protection Association's Code No. 704.

4. 310 CMR 30.253 is hereby amended by deleting subsection 310 CMR 30.253(9) and renumbering subsections 310 CMR 30.253(6), (7) and (8) as 310 CMR 30.253(7), (8) and (9) respectively.

5. 310 CMR 30.253 is hereby further amended by inserting immediately after subsection (5) the following subsection:-

(6) Generators of waste oil and/or used oil fuel shall be subject to the following requirements:

(a) Large quantity generators of waste oil and/or used oil fuel only, large quantity generators of waste oil and/or used oil fuel who generate and accumulate all other regulated recyclable materials and all other hazardous wastes in quantities entitling them to the status of either a small quantity generator pursuant to 310 CMR 30.351 or a very small quantity generator pursuant to 310 CMR 30.353, shall comply with the requirements set forth or referred to in 310 CMR 30.351(9).

6. 310 CMR 30.253 is hereby further amended by inserting subsections 310 CMR 30.253(10) and (11) immediately after subsection 310 CMR 30.253(6)(a) and renumbering 310 CMR 30.253(10) and (11) as 310 CMR 30.253(6)(b) and (c) respectively.

7. 310 CMR 30.253(9)(b)1 is hereby amended to strike out the word "EPA" and insert in place thereof the following:- "DEP."

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8. 310 CMR 30.340(1)(b)4 is hereby amended by inserting immediately after the last sentence the following:-

For underground tanks, marks and labels shall be made on the aboveground portion of the tanks or in close proximity to the tank.

9. 310 CMR 30.340(3) is hereby amended by striking out the first sentence.

10. 310 CMR 30.340(4) is hereby amended by deleting from the first sentence "310 CMR 30.340(1)(a),(b),(j) and (k)" and inserting in place thereof the following:- "310 CMR 30.340(1)."

11. 310 CMR 30.340(4)(d) is hereby amended by deleting from the first and second sentences "310 CMR 30.340(1)(a),(b),(j) and (k)" and inserting in place thereof the following:- "310 CMR 30.340(1)."

12. 310 CMR 30.351(4) is hereby amended by deleting from the first sentence "310 CMR 30.351(8)(a)" and inserting in place thereof the following:- "310 CMR 30.351."

13. 310 CMR 30.351(4)(d) is hereby amended by deleting from the first and second sentence "310 CMR 30.351(8)(a)" and inserting in place thereof the following:- "310 CMR 30.351."

14. 310 CMR 30.411(1)(c) is hereby amended by inserting in place after the word "Commonwealth" the following:-

"or in the United States of America."

15. 310 CMR 30.411(7)(a) is hereby amended by deleting said division and inserting in place thereof the following:-

(a) The institution issuing a letter of credit shall be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Massachusetts Commissioner of Banking, or the institution shall be a national bank.

16. 310 CMR 30.524(2)(f) is hereby amended by deleting the words "next to every telephone at the site of generation" and inserting in place thereof the following:-

"near the telephones at the site of accumulation."

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17. 310 CMR 30.583(1)(h) is hereby amended by deleting the reference to "30.698" and inserting in place thereof the following:- "30.699."

18. 310 CMR 30.695 is hereby amended by inserting immediately after subsection (4) the following subsection:-

(5) A tank holding hazardous waste shall always be closed during storage, except when waste is being added or removed.

19. 310 CMR 30.705(4)(c) is hereby amended by deleting the reference to "30.697(2)" and inserting in place the following:- "30.698(2)."

20. 310 CMR 30.901(1)(b) is hereby amended by inserting at the end of said division the following:-

A waiver from 310 CMR 30.908(2) may be granted, at the discretion of the Department, for underground storage tanks that may be visually inspected.

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AIR QUALITY LICENSE AMENDMENTS

1. 310 CMR 7.03(1)(c)12 is hereby amended by inserting in place the following:-

12. On or after June 1, 1990, construction, substantial reconstruction, or alteration of a fuel utilization facility that satisfies the following requirements:

- a. has an energy input capacity greater than or equal to 3,000,000 Btu per hour.
- b. burns residual fuel oil as its primary fuel,
- c. dilutes the used oil fuel in the fuel tank to a ratio of a minimum of 100 to 1 by volume, residual oil to used oil fuel.
- d. burns used oil fuel containing less than 1000 ppm total halogens on the site where it is generated.
- e. complies with all other provisions of 310 CMR 7.00 and 30.000.
- f. has a valid Recycling Permit issued by the Department pursuant to 310 CMR 30.200.

[Note: The Department proposed to adopt 310 CMR 7.03 at public hearings on February 27 and March 1, 1990.]

2. 310 CMR 7.04(9)(a) is hereby amended by inserting after "--used oil fuel unless" the following:-

"that person complies with either 310 CMR 7.04(9)(a)1 or 2 and 3 and 4".

3. 310 CMR 7.04(9)(a) is hereby further amended by striking out 310 CMR 7.04(9)(a)1 and 2 and inserting in place thereof the following:-

1. the Department has in writing approved an application for the facility to burn the used oil fuel and the used oil fuel is burned in accordance with that approval, or

2. the facility burns used oil fuel in compliance with the requirements of 310 CMR 7.03, and

4. 310 CMR 7.04(9)(b)2a is hereby amended by striking out the text "of the plans, specifications, Standard Operating Procedure, and maintenance procedure".

5. 310 CMR 7.04(9) and 7.05(7), (8) and (9) are hereby amended by striking out the word "fossil" every time it appears in the text "fossil fuel utilization facility".

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6. 310 CMR 7.05(8) is amended by inserting "****" after "4000 ppm or less" and at the end of Table 310 CMR 7.05(8) the following footnote:

*** providing it is not hazardous waste fuel, as specified in 310 CMR 30.215(1)(b)

7. 310 CMR 7.05(9) is hereby amended by striking out all text after "used oil fired space heater" and inserting in place the following:-

provided that the requirements set forth in 310 CMR 7.05(7) are complied with unless the waste oil from one of the following:

1. generated by a very small quantity generator as defined in 310 CMR 30.353;
2. a household waste as described in 310 CMR 30.104(6) and received from the person at whose household the oil became waste oil;
3. generated at the site where the space heater is located;
4. collected at a waste oil collection center as described in 310 CMR 30.393(10).

8. 310 CMR 7.08(4)(c)3 is hereby amended by striking out the word "1980."

9. 310 CMR 7.08(4)(h)2 is hereby amended by striking out the words "potential to emit" and inserting in place the following:- "potential emissions".

